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23389

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400 Garden City Plaza - Suite 300
Garden City, NY 11530

In re Application of :
BECK, Josef :
Application No.: 10/535,072 :
PCT No.: PCT/EP03/12526 : DECISION ON REQUEST
Int. Filing Date: 10 November 2003 :
Priority Date: 15 November 2002 :
Attorney Docket No.: 18767 :
For: AXIAL PISTON MACHINE, RECOIL
PLATE AND METHOD OF
MANUFACTURING A RECOIL PLATE

This decision is issued in response to applicants' "Petition to Withdraw Notice of Abandonment" filed in the United States Patent and Trademark Office on 08 January 2007 which is being treated as a Petition under 37 CFR 1.182. The \$400 petition fee under 37 CFR 1.17(f) will be charged to Deposit Account no. 19-1013.

BACKGROUND

On 10 November 2003, applicant filed international application PCT/EP03/12526 which claimed a priority date of 15 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 June 2004. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 15 May 2005.

On 13 May 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 01 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the surcharge for filing after the thirty-month period were required.

On 12 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating, in effect, that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 01 December 2005.

On 08 January 2007, applicant filed "Petition to Withdraw Notice of Abandonment" which was accompanied, inter alia, by: copy of the declaration and power of attorney; a post card receipt for application no. 10/535,078; and a copy of a transmittal letter for application no. 10/535,078.

DISCUSSION

The present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicant's 03 March 2006 submission to the proper application number, that is, 10/535,072.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by inventor, title of invention; and the docket number. The receipt itemizes a Declaration for Patent Application. The receipt is stamped "Rec'd. PCT/PTO 03 MAR 2006" across its face. A review of the papers filed 03 March 2006 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/535,072.

The papers filed on 03 March 2006 have been removed from application number 10/535,078 and placed in application folder number 10/535,072.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is GRANTED. The declaration and power of attorney filed 03 March 2006 was a timely response to the Notification of Missing Requirements mailed 01 December 2005.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 10 November 2003 and a date of **03 March 2006** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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01 FC:8021
02 FC:1251 40.00 DA 40.00 OP
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01 FC:1462 400.00 DA